REMARKS

Claims 1-16 are pending in the present application. By this Amendment, claims 1, 5, 9, and 10 are amended. Claim 1 is amended to correct an informality but not to limit the claim scope. Claims 5, 9, and 10 are merely amended to comply with formal requirements. No new matter has been added.

Claims 5, 9, 10 and 13-16 are rejected under 35 U.S.C. §112, second paragraph, for reciting "preferably." Claims 5, 9, and 10 have been amended to obviate this rejection. Claims 13-16 have been rejected merely for their dependence on a rejected claim.

Claims 1-16 are rejected under 35 §U.S.C. 103(a) as being unpatentable over US Patent Application Publication No. 2003/0092939 to Strofer et al.

Claim 1 recites, among other features, that liquid streams I and II are mixed in the rectification column. As appreciated by the Examiner, Strofer teaches, at Fig. 2, that formic acid, via feedline 5, and a metal formate from reactor 7 are mixed in mixer 8 prior to distillation. However, the Office Action asserts that mixing continues to occur within the distillation column. Further, the Office Action asserts that it would have been obvious to eliminate mixer 8 in the apparatus depicted in Fig. 2 of Strofer.

Applicants respectfully disagree with the assertions in the Office Action; in particular, with the assertion that the occurrence of clogging due to the formation of a precipitate provides motivation to remove mixer 8 in the apparatus of Strofer. If anything, the occurrence of clogging provides motivation to install an even bigger mixer because a mixer is intended to break up clogging, whereas clogging of the distillation column would adversely effect the distillation process. Further, Strofer teaches, at paragraph [0030], that the reaction conditions ensure that the metal formate does not precipitate. Accordingly, a skilled artisan would not change the reaction conditions of Strofer as this may lead to precipitation of metal formate.

Further, while Strofer discloses, at paragraph [0016], a process for preparing metal formate/formic acid mixtures having a residual water content of generally less than 0.5 % by

weight, the essential difference to the claimed process, is the compulsory performance of a mixing step, i.e., step c, in Strofer for mixing the metal formate with the formic acid, which renders the process much more complicated and costly.

Contrary to the assertions in the Office Action, the skilled artisan would not have been motivated to eliminate the mixing step, as Strofer teaches the necessity thereof. Moreover, the skilled artisan would not have expected to obtain the result achieved with the claimed subject matter, i.e., a product mixture with generally less than 0.5 % by weight of water, by eliminating a process step clearly indicated as being important for the process in Strofer.

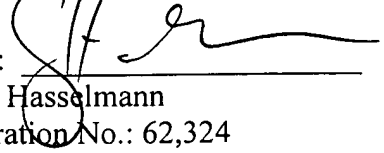
In addition, as set forth at page 4, lines 7-11, of Applicants' disclosure, it is one advantage of the claimed process that it allows to prepare a melt having a low water content even with a distillation column having a lower number of theoretical plates than the related art. As such, the claimed process requires lower capital and operating costs.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 13156-00048-US1 from which the undersigned is authorized to draw.

Dated: October 19, 2009

Respectfully submitted,

Signature: 

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